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Docket No. 97221

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Lok *et al.* : Examiner: Kaufman. C

Serial No. 09/339,153 : Art Unit 1646

Filed June 24, 1999 : November 8, 2001

For: MAMMALIAN ZCYTOR11

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Commissioner of Patents  
Washington, D.C. 20231

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RESPONSE AFTER FINAL

This is in response to the Office Action dated May 30, 2001. Also enclosed is a request for a three-month extension of time extending the period of response from August 30, 2001 to November 30, 2001. Also submitted is a Declaration under 37 C.F.R. §1.132 and exhibits 6-9.

Remarks

**Information Disclosure Statement**

Regarding the IDS, on page one of the amendment dated February 23, 2001, we gave authorization to the Commissioner to charge our deposit account \$240.00 for late filing of the IDS as required under 37 C.F.R. §1.17(p). See page one of the amendment.

Rejection under 35 U.S.C. §101/112

Claims 1-19 have been rejected under 35 U.S.C. §101/112, because the claimed invention is allegedly not supported by either a specific asserted utility or a well established utility. Applicants respectfully disagree. The Court of Appeals for the Federal Circuit has stated that a utility is substantial if it is practical. See *Cross v. Iizuka et al.* 224 USPQ 739 (1985). A practical utility need not be a therapeutic utility or a diagnostic utility. Applicants have clearly shown that